

COUNTY OF YORK

MEMORANDUM

DATE: April 1, 2005 (PC Mtg. 4/19/05)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator

SUBJECT: Application Nos. ZM-88-04 and UP-646-04, King's Creek Developers, LLC

ISSUE

Application Nos. ZM-88-04 and UP-646-04 are two components of a single development proposal and, therefore, are being described in a single memorandum. However, separate public hearings and separate actions/votes should be conducted on each.

- **Application No. ZM-88-04** seeks to amend the York County Zoning Map by reclassifying, subject to voluntarily proffered conditions, approximately 25.1 acres located on the south side of Penniman Road from RR (Rural Residential) to EO (Economic Opportunity). The property is further identified as portions of Assessor's Parcel Nos. 11-3-E and 11-3-F.
- **Application No. UP-646-04**, which is contingent on approval of the rezoning application, is a request for a Special Use Permit to authorize the construction of up to 400 timeshare units on the above-referenced property.

DESCRIPTION

- Property Owner: Alexander W. Jones et ux et al; applicant is contract purchaser.
- Location: 1681 Penniman Road (Route 641) and 112 Jones Drive (private road)
- Area: Approximately 25.1 acres
- Frontage: Approximately 80 feet on Route 199
- Utilities: Public water is available; sanitary sewer service is not currently available.
- Topography: Moderate and steep slopes are present throughout the site.
- 2015 Land Use Map Designation: Economic Opportunity and Low-Density Residential
- Zoning Classification: RR – Rural Residential
- Existing Development: Two single-family detached homes

- Surrounding Development:
 - North: Single-family detached home; Cheatham Annex beyond (across Penniman Road)
 - East: Five single-family detached homes and undeveloped property along Springfield Road (Route 687)
 - South: Undeveloped property of King's Creek Plantation
 - West: Three single-family detached homes and undeveloped property of King's Creek Plantation
- Proposed Development: A maximum of 400 timeshare units

BACKGROUND

These applications were first scheduled for a Planning Commission public hearing in September 2004. At the request of the applicant, who wanted additional time to address a concern about building height expressed in the original staff report, the Commission continued the public hearing to the October meeting, at which time the Commission tabled these applications indefinitely at the applicant's request. Since then, the applicant has modified this proposal by proffering that no buildings will exceed four (4) stories in height and that no buildings will be located within 50' of any residential property line, and that development of the property will be in general conformance with the applicant's concept plan for development of the property depicting the 50' setback.

CONSIDERATIONS/CONCLUSIONS

1. On December 17, 1997, the Board approved an application (Application No. ZM-24-97) to rezone 147.3 acres along the Route 199/Penniman Road corridor to Conditional EO (Economic Opportunity) and an application for a Special Use Permit (Application No. UP-524-97) to authorize the establishment of a 1,100-unit timeshare resort, to be known as King's Creek Plantation, on this property. Construction is underway on this project, which is approximately 24% completed. The developer subsequently purchased four adjacent parcels, encompassing a total of 6.44 acres, and received approval from the Board of a rezoning and a Special Use Permit for the purpose of incorporating them into the project. King's Creek Developers, LLC now has a contract to purchase portions of two adjacent parcels, encompassing a total of 25.1 acres, and wishes to construct up to 400 timeshare units thereon as part of King's Creek Plantation.
2. Both parcels are owned by a single property owner, who lives in a single-family detached home located on one of the parcels (112 Jones Drive), which is approximately 5.91 acres in area. She wishes to retain this home site, while conveying the remainder of the property to the applicant for time-share development. She also wishes to sell most of the second parcel, which measures 22.43 acres in area, to King's Creek Plantation while retaining a home site for a family member. To accomplish this, the applicant is seeking to rezone from RR to EO all but 1.5 acres of each parcel, which corresponds with the minimum lot size for a single-family

detached home when public water is available and public sewer is not, which is the case for these parcels. When this property is developed for timeshare units, the developer will extend public sewer to this area, including the two home sites, which will then be subject to the customary one-acre minimum lot size in the RR zoning district. At that time, the applicant plans to purchase an additional half-acre from each of these properties and apply for another rezoning and Special Use Permit for the purpose of incorporating the additional acre into the timeshare resort.

3. According to the applicant, King's Creek Plantation is about 24% built out. Existing development consists of a mix of detached and attached units, some with lockout units and some without. If these applications are approved, the maximum gross density of the development, at full build-out, would increase from approximately 7.0 to 8.2 units per acre. By itself, the subject property would have a maximum gross density of approximately 16 units per acre. Since steep slopes and the Chesapeake Bay Resource Protection Area preclude development on portions of the site, the *net* density would be somewhat higher.
4. The *Comprehensive Plan* designates most of this area as Economic Opportunity. The Economic Opportunity designation "recognizes the presence of a full I-64 interchange and the potential for extension of public utilities to serve a mix of office, commercial, tourist-related, and light industrial uses." Because of its proximity to the greater Williamsburg area, Busch Gardens, Water Country USA, historic Yorktown, and a full interchange at Interstate 64, this property is ideally situated for tourist-oriented commercial development such as timeshare units. The plan also notes "The Springfield Road/Jones Drive area along Penniman Road contains scattered residential development and is designated Low Density Residential." Jones Drive is a private road that currently serves one single-family detached home, which is a subject of this application. None of the property proposed for rezoning abuts Springfield Road.
5. The original sketch plan submitted for this development did not depict how the property would be developed. In the absence of a plan, staff expressed concern in the August 30, 2004 Planning Commission staff report about giving blanket approval to a project that created the potential for the development of six-story 90-unit "lodge-style" structures within 35 feet of residential properties on Springfield Road. In order to protect adjacent residentially zoned properties from visual and noise impacts associated with such large-scale structures, staff recommended that any timeshare units within 125 feet of any residential property line be limited to cottages and duplexes only. The Commission tabled both applications at the request of the applicant, who wanted additional time to address this concern. The applicant has since submitted a revised sketch plan, proffer statement, and project narrative for the development of the property. Specifically, the applicant has modified the proposal by proffering that no buildings will exceed four (4) stories in height and that no buildings will be located within 50' of any residential property line, and the applicant also submitted a specific concept plan for development of the property that depicts generally how the property will be developed, including the 50' buffer. In addition, as in the original application, the applicant has proffered that the property will be

developed exclusively for timeshare units and that development will be in general conformance with the submitted sketch plan. The applicant also has proffered that access to the subject property will be internal to the development (off of the existing Tranquility Drive, which is a private street), although there will be a gated emergency access road for fire and rescue trucks, ambulances, etc.

The applicant also submitted a project narrative, which is referenced in the proffer statement and states that development of the property “will continue the architectural theme introduced in the first five phases of KCP, and landscaping treatments will similarly complement the extensive landscaping installed in the first five phases.” With regard to the types of units that could be built, the project narrative states that the additional units would consist of detached and/or attached units of one to four stories.

6. The property proposed for rezoning abuts several residentially zoned parcels, but the number of actual adjacent homes is approximately six – four that front on Penniman Road and two on Springfield Road. If the rezoning application is approved, the applicant has proffered to provide a continuous Type 35 (35’) landscaped transitional buffer along the entire eastern boundary (between the proposed timeshares and residential property on Springfield Road) and along the western boundary abutting residential parcels on Penniman Road. Where the timeshare development would abut the two home sites that are part of this application (one existing and one future), the current owners of the parcels have agreed to provide the Type 35 transitional buffers on the residential side of the property line. Ordinarily the Zoning Ordinance would require the timeshare developer to provide only a 17.5-foot buffer – or no buffer at all, depending on the lot size – where the timeshare property abuts undeveloped RR-zoned property. As noted earlier, there will be an additional 15’ strip contiguous to the transitional buffer within which no buildings will be located.
7. The applicant has submitted a traffic impact analysis for the proposed expansion of King’s Creek Plantation. Based on traffic counts recently taken at Kings Creek Plantation, the applicant’s traffic engineer estimates that the proposed expansion would generate an additional 72 average daily trips in the AM peak hour and 78 in the PM peak hour. The development has a single point of access to the public road system where Tranquility Drive – the private entrance road into the development – intersects Penniman Road and Route 199, forming an unsignalized four-way intersection. As the project approaches build-out, increased delays will be experienced by cars exiting the resort. The likely effect on the public road system, as stated in the traffic study, is “that an increasing number of drivers leaving King’s Creek Plantation will turn right and use the Colonial Parkway as an alternative route. This will add trips to a lower capacity road, rather than utilizing the higher capacity arterial, Route 199, available if vehicles exit by turning left. As delays increase, some drivers may attempt to turn into shorter gaps in traffic. This increases the risk of incidents at the intersection and will impose delays on the through traffic when the through vehicles brake to avoid collision with the KCP traffic.” Staff and the Virginia Department of Transportation (VDOT) share these concerns, and for that reason a condition of previous site plan approvals for Kings Creek Plantation requires the developer to conduct a signal

warrant analysis prior to the completion of 75% (825 units) of the original 1,100 units to determine if a traffic signal is needed at this intersection. According to the applicant's traffic engineer, it is likely that a signal will be needed at that time and that, with a traffic signal in place, the addition of 400 units will not make a difference. I believe that, in the event that the signal warrants are not met at 75% of build-out, the developer should be required to perform a second signal warrant analysis prior to the construction of the 1,101st unit. Proposed Condition No. 6 in the use permit Resolution would accomplish this.

8. In accordance with the Historic Resources Management overlay district standards set forth in Section 24.1-374(d) of the Zoning Ordinance, the applicant submitted a Phase I archeological study for this project. Archeologists conducted 273 shovel tests that yielded a handful of artifacts that are, according to the applicant's archeological consultants, ephemeral in nature and lacking in research value. These include 20th Century ceramic fragments, belt buckle fragments, and a brick fragment. The Virginia Department of Historic Resources (DHR) has reviewed the study and determined that the archeological sites are not eligible for the National Register of Historic Places and that a Phase II study will not be needed for the subject property.
9. The subject property has several environmental constraints including steep slopes (greater than 20%), wetlands, and a Chesapeake Bay Resource Protection Area (RPA). Accordingly, any development on this property will be subject to the provisions of the Environmental Management Area Overlay District set forth in the Zoning Ordinance, which require the submission of a Natural Resources Inventory and, in the event that any permitted development – such as walking trails – is constructed in the RPA, a Water Quality Impact Assessment.
10. Kings Creek Plantation and the timeshare industry in general have had a significant positive impact on York County's economy. According to the Commissioner of the Revenue, King's Creek Plantation is the eighth highest property taxpayer in the County, with a total assessed valuation of over \$24 million and annual revenues, in FY04, of \$211,700. According to the applicant, other taxes and fees generate additional revenues in excess of \$500,000 annually. King's Creek Plantation is also the sixth-largest private employer in the County, employing over 200 total workers (full-time and part-time). Fairfield, which owns and operates three timeshare resorts in the County, ranks third on the list of principal property taxpayers and fourth among major private employers. These figures do not include the immeasurable spin-off effects – such as sales and meals tax revenue – of timeshares and the visitors who inhabit them nor the economic benefits of the many hotel room nights purchased by timeshare companies for prospective timeshare purchasers. Clearly the timeshare industry has assumed a large role in the County's tax base and employment base.

King's Creek, like other timeshare projects in the County, is subject to the transient occupancy tax and the \$2/room night supplementary fee when its accommodations are rented as if they were hotel rooms. The Commissioner of the Revenue reports that the timeshare facilities appear to be diligently collecting and paying all required transient occupancy taxes and fees. To date, in calendar year 2005 the Commissioner of the

Revenue reports the following for tax and fee collections. Note that timeshares account for approximately 6.5% of the fees and taxes collected:

	<u>\$2 fee</u>	<u>Transient Occupancy Tax</u>
Hotels/Motels/B&B/Campgrounds	\$109,813	\$179,774
Timeshares	\$7,950	\$ 12,299
Grand Total	\$117,763	\$192,073

PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered these applications at its March 9 meeting and conducted a public hearing at which the applicant's agent and an adjacent resident and property owner – Ms. Tammie Hicks – spoke. Ms. Hicks expressed her gratitude to the applicant for modifying the original proposal in a way that helps to address the local residents' previous concerns and mitigates the development's impact on their properties. The Commission subsequently voted 7:0 to recommend approval of both applications.

COUNTY ADMINISTRATOR RECOMMENDATION

King's Creek Plantation is an attractive development that gives visitors a favorable impression of the County along a major gateway into historic Yorktown. If the subject property is developed utilizing the same development character and design theme, it would, in my opinion, have no adverse impacts on surrounding properties or on County services, facilities, and infrastructure. Staff's concern that the original proposal created the potential for development of six-story structures within 35 feet of existing residential properties and possible noise and visual impacts of such structures on those properties has been satisfactorily addressed by the applicant with the proffered four-story height limitation and 50' buffer along the residential boundary line.

The *Comprehensive Plan* envisions this area as a prime location for tourist-oriented commercial development while respecting the need to protect existing residences in the area. I believe that, with the proffered transitional buffers and the proposed four-story height limit, these applications are generally consistent with that guidance. Therefore, I recommend that the Board approve Application Nos. ZM-88-04 and UP-646-04 through the adoption of Ordinance No. 05-8 and Resolution No. R05-56, respectively.

Carter/3337:TCC

Attachments

- Excerpts of Planning Commission Minutes, March 9, 2005
- Zoning Map
- Zoning Plat
- Sketch Plan
- Building rendering

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- Composite Exhibit
- Proffer Statement
- Project Narrative
- Proposed Ordinance No. 05-8 (rezoning)
- Proposed Resolution No. R05-56 (use permit)

Copy to: Billie Millner, Esq.